

EXHIBIT BBB

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
Fleming Companies, Inc., <u>et al.</u> , ¹)	Case No. 03-10945 (MFW)
)	(Jointly Administered)
Debtors.)	
)	
<hr/>)	
)	
FLEMING COMPANIES, INC., <i>et al.</i>)	Adversary Proceeding
Plaintiffs,)	Case No. 03-54809 (MFW)
)	
v.)	
)	
WAYNE BERRY, an individual)	
)	
Defendant)	
)	

**FLEMING'S MOTION FOR IMMEDIATE AND
PRELIMINARY INJUNCTIVE RELIEF**

¹ The Debtors (referred to collectively in this Complaint as "Fleming") are the following entities: Core-Mark International, Inc.; Fleming Companies, Inc.; ABCO Food Group, Inc.; ABCO Markets, Inc.; ABCO Realty Corp.; ASI Office Automation, Inc.; C/M Products, Inc.; Core-Mark Interrelated Companies, Inc.; Core-Mark Mid-Continent, Inc.; Dunigan Fuels, Inc.; Favar Concepts, Ltd.; Fleming Foods Management Co., L.L.C.; Fleming Foods of Texas, L.P.; Fleming International, Ltd.; Fleming Supermarkets of Florida, Inc.; Fleming Transportation Service, Inc.; Food 4 Less Beverage Company, Inc.; Fuelserv, Inc.; General Acceptance Corporation; Head Distributing Company; Marquise Ventures Company, Inc.; Minter-Weisman Co.; Piggly Wiggly Company; Progressive Realty, Inc.; Rainbow Food Group, Inc.; Retail Investments, Inc.; Retail Supermarkets, Inc.; RFS Marketing Services, Inc.; and Richmar Foods, Inc.

Introduction

The above captioned Plaintiffs, Fleming Companies, Inc., *et al.*, ("Fleming") hereby move (the "Motion") the Court for an order granting Immediate and Preliminary Injunctive Relief to put a stop to Hawaiian software designer Wayne Berry ("Berry") and the incessant campaign of harassment which he and his counsel have inflicted upon Fleming and its counsel.

Relief Requested

1. Fleming requests that the Court grant orders issuing (A) a temporary restraining order (1) prohibiting Berry, his counsel, and all other agents from communicating with Fleming, its employees, its counsel or agents, the United States government, or any other entity regarding the liability of Fleming for any post-petition infringement of any copyright owned by Berry, unless through communications and legal proceedings directly related to this adversary proceeding, until such time as there is a final determination on the merits, (2) prohibiting Berry, his counsel, and all other agents from communicating with Fleming, its employees, its counsel or agents, the United States government, or any other entity regarding allegations that Fleming, its employees, its counsel, or agents are involved in wrongdoing of any kind, including but not limited to acts of terrorism, cigarette smuggling, overcharging, and/or concealing information, unless by express approval of this Court, and (3) prohibiting Berry, his counsel, or any other agents from engaging in any harassing behavior towards Fleming, its employees, counsel, or any other agents; and (B) a preliminary injunction, upon proper notice and hearing set by the Court, against Berry for the protection of Fleming, regarding these same activities.

Discussion

2. The motion is brought upon the grounds that Berry and his counsel have engaged and are engaged in a campaign of harassment which is materially detrimental to

the efficient administration of Fleming's bankruptcy activities. Fleming is materially harmed by the activities of Berry and his counsel, who have no right to claim harm since their activities are illegitimate. The public interest favors enjoining creditors and anyone else from harassing debtors. Therefore, until there is a final determination on Fleming's Complaint for Declaratory Relief, this Court should prohibit Berry and his counsel from harassing behaviors, beginning immediately.

3. Fleming is concurrently filing its Memorandum of Points and Authorities in Support of Fleming's Motion for Immediate and Preliminary Injunctive Relief (the "Memorandum"). The Memorandum sets forth the facts underlying the Motion, as well as the law and legal argument supporting the relief requested.

WHEREFORE, for the reasons set forth in Fleming's Memorandum of Points and Authorities in Support of Fleming's Motion for Immediate and Preliminary Injunctive relief, Fleming respectfully requests that the Court grant the relief requested herein, and such other and further relief as is just and proper.

Wilmington, Delaware

Respectfully submitted,

Dated: August 1, 2003

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